

Memorandum

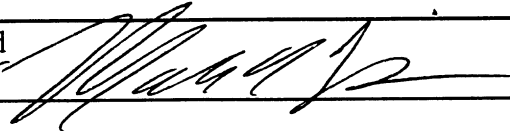
TO: DRIVING A STRONG
ECONOMY COMMITTEE

FROM: Leslye Corsiglia and
Stephen M. Haase

**SUBJECT: POLICY REVIEW OF
SECONDARY UNITS**

DATE: October 20, 2003

Approved



Date

10/21/03

COUNCIL DISTRICT: Citywide

SNI: All

RECOMMENDATION

It is recommended that the Driving a Strong Economy Committee direct staff to draft an ordinance to allow for the construction of new secondary units in San José.

BACKGROUND

At the August 25, 2003 meeting of the Driving a Strong Economy Committee, the Committee heard a presentation from the Department of Housing and the Department of Planning, Building, and Code Enforcement on the issue of secondary residential units. Staff reported that the City had adopted findings in 1984 (Ordinance No. 21663), which restricted the ability of the City to approve secondary residential units within San José. The Committee advised staff to: 1) review the City's 1984 findings and recommend the types of changes that would need to be made to update the findings to continue to limit secondary units, and 2) provide the Committee more details about the issues that would need to be addressed for the City if it were to adopt a policy to allow the permitting of secondary residential units.

ANALYSIS

1984 Ordinance and Findings

Pursuant to the requirements of State law, the City of San José adopted findings to preclude second units, except as such units may be permitted under existing provisions of Title 20 of the San Jose Municipal Code, with the passage of Ordinance No. 21663 adopted on May 15, 1984. The City's 1984 findings state that there would be adverse health, safety and welfare impacts caused by the addition of housing units beyond those planned for in the General Plan.

The secondary units working group, comprised of the Department of Planning, Building, and Code Enforcement; the Department of Housing; and the Attorney's office met and reviewed the 1984

findings to determine what elements might be updated to reflect the City's current General Plan. Upon its review, the working group determined that it was not likely that 26,000 secondary units would be created in a six-year period if a policy allowing their development were adopted. However, the working group acknowledges that other concerns could be taken into consideration, including:

- San Jose 2020 General Plan - Acknowledgement of the current San José 2020 General Plan and its Major Strategies, a number of which aim to foster infill development.
- Public Facilities – Neighborhood libraries, parks, and community centers could receive additional strains to their systems. This could have an effect on maintenance and improvement costs to the City.
- Neighborhood Parking and Traffic – Neighborhoods in already congested areas of the City (particularly Downtown) may have difficulty handling the influx of additional cars on residential streets. Parking is already impacted in various neighborhoods throughout the City.
- Neighborhood Livability – Many residents could be concerned with issues of overcrowding within certain neighborhoods. Because some neighborhoods could be impacted more than others and because many of the secondary residential units built, by their nature, may be affordable, some neighborhoods may object adding to the density of their neighborhood.

Elements of a Potential Secondary Units Ordinance

In order to better understand the issues surrounding a secondary residential unit policy, the working group also conducted a survey of several different jurisdictions in the Bay Area and around California. The survey examines 15 cities within the Bay Area and around California to determine the key aspects of these cities' secondary unit policies. With the assistance of the State's Department of Housing and Community Development (HCD) (charged by recent legislation with the tracking of jurisdictions' second unit policies), the City of San José received information on what the State considered "best practices" and "model ordinances" and also contacted a number of larger cities to determine how those policies worked.

The attached survey (Attachment A) looked at five different categories. These were areas identified by the working group as concerns that would be considered important to San José. These categories included: 1) owner occupancy requirements, 2) minimum lot size, 3) maximum unit size, 4) parking requirements, and 5) other additional requirements. Additionally, when conducting the survey we asked how many units each jurisdiction either expected to build or were built each year and how many dwelling units currently existed in the city's housing stock.

In general the survey found that most cities created no more than 10 or 12 units per year. Even a large city like San Diego only created about 22 legal units since 1984 (the adoption date of their ordinance). Also, the survey's comparison of lot size and unit size requirements shows that most cities have required minimum lot sizes between 6,000 to 10,000 square feet and maximum unit sizes ranging from 475 to 900 square feet. Additionally, the survey demonstrates that all but one city has a parking requirement of at least one space of off-street parking and many cities have design and architectural requirements that aim at keeping the secondary residential unit consistent with the primary dwelling unit's design.

Another key feature of the survey is the owner occupancy requirements. Over two-thirds of the cities surveyed have adopted a requirement that at least the owner occupy one of the two units. This helps assure neighborhoods that the unit is being properly maintained and the owner is aware of the activity occurring.

Also, it should be noted that pursuant to State law, if a jurisdiction adopts a secondary unit policy, applications for second units must be considered "ministerially," meaning without discretionary review or a hearing. Therefore, clear standards would be needed (i.e., recovery of the costs of conducting the ministerial review).

PUBLIC OUTREACH

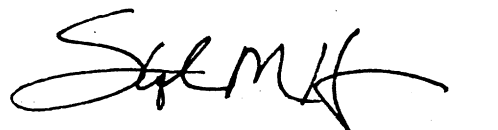
The Housing Advisory Commission (HAC) heard the topic of secondary residential units on July 10, 2003. Many Commissioners and guests present at the meeting stipulated their desire to see a policy in place, which would make secondary residential units legal in San José. The Commission also pointed out that in May 2003 a memorandum was sent to the Mayor and Council expressing support for a policy that would allow secondary units to be phased in over time.

No additional outreach has been conducted to this point; however, the topic of second units is of interest to a number of neighborhoods including several of the Strong Neighborhoods Initiative (SNI) areas. Should the City Council recommend any further action regarding secondary residential units, extensive public outreach should be incorporated into the working group's schedule.

CONCLUSION

Development of secondary units would increase the affordable housing stock in the City. A policy allowing such units would be consistent with the City's goals of infill development. For these reasons, staff is recommending that the Committee direct the preparation of such an ordinance.


LESLYE CORSIGLIA
Director of Housing


STEPHEN M. HAASE
Director of Planning, Building and
Code Enforcement

Attachment

Secondary Residential Units – California Cities (October 2003)

City	Owner Occupancy Requirement	Lot Size and Unit Size Requirements	Parking Requirements	Other Requirements	Units Created Yearly	Total # Housing Stock	Last Revision to Second Unit Policy
Santa Clara "Accessory Residential Second Units"	No	<ul style="list-style-type: none"> Minimum lot size of 7,000 sq. feet. Maximum height of 14 ft. Maximum unit size 640 sq. ft. 	Yes, one additional space (non-tandem)	<ul style="list-style-type: none"> Restrictions on front yard, side yard, rear yard, and fencing requirements. 	15 approved units since 1983	39,630	Anticipate adoption by January 2004.
Mountain View "Companion Units"	No	<ul style="list-style-type: none"> Lot Size must be 35% larger than the minimum lot size required by district. Maximum unit size of 700 sq. Maximum height of 16 ft. 	Yes, one space per bedroom.	<ul style="list-style-type: none"> Detached units must be at least 10 ft. from main house, located on rear ½ of the lot and minimum of 10 ft. from rear property line. 	1 - 2 per year	32,432	Feb-03
Santa Cruz "Accessory Dwelling Units"	Yes	Lot Size and Unit Size: <ul style="list-style-type: none"> 500 sq. ft. (max) unit on a 5,000 sq. ft. lot 640 sq. ft. (max) unit on a 7,500 sq. ft. lot 800 sq. ft. (max) unit on a 10,000 sq. ft. lot. 	Yes, one parking space per bedroom (tandem okay)	<ul style="list-style-type: none"> Detached require side-yard and rear-yard setbacks of not less than 3 ft.; Higher than one story units require side yard setbacks of 5 ft. and rear yard setbacks of 10 ft. One story detached units to be no more than 15 ft. in height One and one-half to two story detached ADU to no more than 22 ft. 	139 permits issued since 1985	21,504	May 27, 2003
Los Gatos "Accessory Dwelling Units"	No	<ul style="list-style-type: none"> Minimum lot size for an attached unit is 10,000 sq. ft.; detached is 15,000 sq. ft. Maximum unit size 750 - 900 sq. ft. 	Yes, one parking space.	<ul style="list-style-type: none"> Architecture and site approval required for all new secondary units. 		12,367	
San Diego "Companion Units"	Yes	<ul style="list-style-type: none"> Minimum lot size equal to or greater than two times the minimum lot area required for the zone. Maximum unit size of 700 square ft. Maximum height requirements 	Yes, one space per bedroom.	<ul style="list-style-type: none"> The companion unit shall be constructed with the same siding and roofing materials as the primary. Amnesty Program Requires City Manager is to assess any detrimental impacts to public facilities services if companion units reaches 5% of the total single-family units in the respective community planning area. 	Since 1984 22 units approved	469,689	July 1, 2003
Sunnyvale "Accessory Living Units"	Yes	<ul style="list-style-type: none"> Minimum lot size is 9,000 sq. ft. Maximum unit size is 700 sq. ft. with 1 bedroom. 	Yes, one (non-tandum) parking space	<ul style="list-style-type: none"> Unit must be in back of primary dwelling and entrance cannot be visible from street; Property owner must reside at said residence a minimum of 20 years before secondary unit can be rented. 	Since 1987 approximately 70 units approved.	53,753	June 10, 2003

City	Owner Occupancy Requirement	Lot Size and Unit Size Requirements	Parking Requirements	Other Requirements	Units Created Yearly	Total # Housing Stock	Last Revision to Second Unit Policy
Cupertino "Secondary Dwelling Units"	Not Known	<ul style="list-style-type: none"> Minimum lot size of 10,000 sq. ft. and must be attached to the principal dwelling, unless in special zoning districts and no minimum lot size required. Maximum unit size of 640 sq. ft. 	Yes, one parking space .	<ul style="list-style-type: none"> Design to be consistent with the architecture of principal dwelling. 	Objective is to produce 25 units between 2001-2006	18,682	
Oakland "Secondary Units"	Yes	<ul style="list-style-type: none"> No minimum lot size. Maximum unit size of 650 sq. ft. or 50% of the floor area of the primary dwelling, whichever is less. 	Yes, one space per bedroom.	<ul style="list-style-type: none"> Require Special Residential Design Review (checklist procedure) Architectural design and materials must match or be visually compatible with that of the primary building. 	Not Known	157,508	June 18, 2003
Milpitas "Second-family Units"	Yes	<ul style="list-style-type: none"> Minimum lot size of 6,000 sq. ft. and must be attached to the existing residence and located in a corner. Maximum unit size of 475 sq. ft. 	Not Known	<ul style="list-style-type: none"> Construction must conform to height, setback, lot coverage, architectural review, site plan review, fees, charges and other applicable zoning requirements. 	Not Known	17,364	
Palo Alto "Second single-family Dwelling unit" (SDU)	No	<ul style="list-style-type: none"> Minimum required lot size of 6,000 sq. ft. Maximum unit size for detached is 900 sq. ft.; attached unit is 250 sq. ft. Maximum height of 17 ft. 	Yes, detached must have two spaces; attached requires one space.	<ul style="list-style-type: none"> Accessory dwellings and guest cottages existing on April 28, 1986, and which prior to that date were lawful, conforming permitted uses may remain as legal nonconforming uses. 	Since 1985, 90 units built.	26,048	July 1, 2003
Fremont "Secondary Dwelling Units"	Yes, unless both units are leased to one family.	<ul style="list-style-type: none"> No minimum lot size. Maximum unit size of 275-600 sq. ft. limited to 1 bedroom, 1 kitchenette and 1 bathroom. Maximum height of 12 ft. 	Yes, one parking space (non tandem)	<ul style="list-style-type: none"> Unit to be subordinate to the principal dwelling unit by size, location, character and appearance. Outside stairways to the secondary unit shall not be in front of the principal dwelling unit. 	Less than 5 units created yearly.	69,452	Last revised 1987; In process of updating.
Sacramento "Second Residential Unit"	Yes	<ul style="list-style-type: none"> Lot size permitted on R-1 (average lot size is 5,200 sq. ft.). Maximum unit size of 640 sq. ft. for detached, attached unit not to exceed 30% of the floor area of the primary residence. 	Yes, one parking space per bedroom	<ul style="list-style-type: none"> Must comply with conditions established by Planning Commission to mitigate adverse impact on neighboring residence Architecture to be compatible with that of the main residential dwelling. 	10-13 per year	163,957	October 9, 2003

Attachment A

City	Owner Occupancy Requirement	Lot Size and Unit Size Requirements	Parking Requirements	Other Requirements	Units Created Yearly	Total # Housing Stock	Last Revision to Second Unit Policy
Larkspur "Residential Second Units"	Yes	<ul style="list-style-type: none"> Lot size based on slope. Maximum unit size of 320 - 700 sq. ft. 	Yes, one space.	<ul style="list-style-type: none"> Design of the residential second unit shall be compatible with the design and scale of the existing dwelling including landscaping. Detached units must meet height and setback requirements for accessory structures as stipulated in zoning district. Attached units shall meet the height and setback requirements of main dwelling. 	One unit since July	6,413	July 2, 2003
Santa Ana "Second Dwelling Unit"	Yes	<ul style="list-style-type: none"> No Minimum lot size Minimum/Maximum unit of 300-750 sq. ft. Maximum height of 15 ft. 	Yes, one space per bedroom.	<ul style="list-style-type: none"> The size and location of the second dwelling unit shall not cause the parcel to be reduced below a total of 1,200 sq. ft. of usable, continuous, non-front yard open space, excluding driveways and parking areas. Second dwelling units are not permitted within a park service area due to the City's chronic shortage of open space 	Since June 2003, no applications to date.	74,588	June 2, 2003
Santee "Secondary Dwelling Units"	Yes	<ul style="list-style-type: none"> Lot size must meet the minimum lot size of the residential district. Minimum/Maximum unit size of 150 - 600 sq. ft. 	No, exempt from parking requirements	<ul style="list-style-type: none"> Unit not to be constructed on a second story level of a primary residence that is a one-story structure. Unit must meet architectural design, materials, colors and texture of existing main structure. 	One unit since June 2003	18,833	June 11, 2003